

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(Big Stone Gap Division)**

MELINDA SCOTT,

Plaintiff,

v.

WISE COUNTY DEPARTMENT OF
SOCIAL SERVICES, *et al.*,

Defendants.

Case No. 2:20-cv-00014-JPJ-PMS

MOTION TO STRIKE

NOW COMES Defendant Joshua Moon, by counsel, and submits this Motion to Strike, or in the alternative Motion to Return Unfiled, any future Notice of Appeal filed by the Plaintiff in this matter, which is not accompanied by the requisite filing fee. In support of this Motion, Defendant Moon states as follows:

- 1) This Court certified on September 22, 2021 that the Plaintiff's proposed appeal to the Fourth Circuit was not taken in good faith. ECF No. 79.
- 2) The Plaintiff has served upon undersigned counsel, but apparently not yet filed with the Court, yet another Notice of Appeal in this matter. See Exhibit A. This latest appeal appears to be an attempt to take an end-run around Fed. R. App. P. 24 (a)(5) and is not taken in good faith for all the same reasons the initial appeal was not taken in good faith.
- 3) 28 U.S.C. §1915 (a)(3) states that "An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith."

- 4) This Court has made the requisite certification, and the Defendant is no longer entitled to proceed *in forma pauperis* by operation of law. Any future filings must be accompanied by the usual filing fee, or rejected by this Court and deemed un-filed.

WHEREFORE Defendant Moon moves to strike or return un-filed any future Notice of Appeal that the Plaintiff attempts to file in this matter.

Respectfully submitted this the 23rd day of September, 2021,

JOSHUA MOON

By Counsel:

/s/Matthew D. Hardin

Matthew D. Hardin, VSB #87482

Hardin Law Office

1725 I Street NW, Suite 300

Washington, DC 20006

Phone: 202-802-1948

Email: MatthewDHardin@protonmail.com

Certificate of Service

I hereby certify that I will file a true and correct copy of the foregoing document with the Court's CM/ECF system, which will electronically serve counsel of record. I have also deposited a true and correct copy of the foregoing document into the U.S. Mail, with First Class postage prepaid, directed to:

Melinda Scott
2014PMB87
Post Office Box 1133
Richmond, VA 23218

Dated: September 23, 2021

/s/Matthew D. Hardin
Matthew D. Hardin
Counsel for Joshua Moon



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

MELINDA SCOTT,)
)
PLAINTIFF.)
)
V.)
)
WISE CO. DSS,)
ET AL.,)
)
DEFENDANTS.)

CL NO. 2:20cv14

NOTICE OF APPEAL

COMES NOW, the Plaintiff, Melinda Scott, and states that she will appeal the following
Orders from the Western District Court to the Fourth Circuit US Court of Appeals:

- (1) Order granting Motion for an Extension of Time, entered in September 9, 2021
(signed by Magistrate Judge Pamela Meade Sargent)
- (2) Order granting Motion for an Appeal Bond, entered in September 22, 2021 (signed
by Magistrate Judge Pamela Meade Sargent)

Pursuant to Rule 3(a)(1), an additional copy of this Notice of Appeal has been sent to the
Clerk to comply with Rule 3(d).

NOTICE OF APPEAL

9.23.21

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SIGNED RESPECTFULLY,

_____/s/ Melinda Scott_____
Melinda Scott, *pro-se*
PO BOX 1133-2014PMB87 (VA ACP address)
Richmond, VA 23218
540-692-2342
mscottw@gmu.edu

CERTIFICATE OF SERVICE

I certify that I have mailed a copy of this REPLY to Counsel for the Defendant, Matthew D. Hardin, VSB #87482, 1725 I Street NW, Suite 300, Washington, D.C., 20006, and at matthewdhardin@gmail.com on this ____23rd____ day of SEPT., 2021.

SIGNED,

_____/s/ Melinda Scott_____
Melinda Scott, *pro-se*
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Richmond, VA 23218
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NOTICE OF APPEAL

9.23.21

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